

Danny J. Horen, Esq.
NV Bar No. 13153
Kazerouni Law Group, APC
7854 W. Sahara Avenue
Las Vegas, NV 89117
Telephone: (800) 400-6808x7
Facsimile: (800) 520-5523
danny@kazlg.com

David H. Krieger, Esq.
NV Bar No. 9086
HAINES & KRIEGER, LLC
8985 S. Eastern Avenue, Suite 130
Henderson, Nevada 89123
Phone: (702) 880-5554
FAX: (702) 385-5518
dkrieger@hainesandkrieger.com

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

COMPLAINT

CASE No. 2:15-cv-01064

INTRODUCTION

1. The United States Congress has found the banking system is dependent upon
2 fair and accurate credit reporting. Inaccurate credit reports directly impair
3 the efficiency of the banking system, and unfair credit reporting methods
4 undermine the public confidence, which is essential to the continued
5 functioning of the banking system. Congress enacted the Fair Credit
6 Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”), to insure fair and
7 accurate reporting, promote efficiency in the banking system, and protect
8 consumer privacy. The FCRA seeks to ensure consumer reporting agencies
9 exercise their grave responsibilities with fairness, impartiality, and a respect
10 for the consumer’s right to privacy because consumer reporting agencies
11 have assumed such a vital role in assembling and evaluating consumer credit
12 and other information on consumers. The FCRA also imposes duties on the
13 sources that provide credit information to credit reporting agencies, called
14 “furnishers.”

20 2. PARIS I. MONTANA (“Plaintiff”), by Plaintiff’s attorneys, brings this
21 action to challenge the actions of CREDIT CONTROL CORPORATION
22 (“CCC”) and EXPERIAN INFORMATION SOLUTIONS, INC.
23 (“Experian”) (or jointly as “Defendants”) with regard to erroneous reports
24 of derogatory and negative credit information made by Defendants to
25 national reporting agencies, and for failure of Defendants to properly
26
27
28

1 investigate, and this conduct caused Plaintiff damages.

2 3. Plaintiff makes these allegations on information and belief, with the
exception of those allegations that pertain to Plaintiff, or to Plaintiff's
4 counsel, which Plaintiff alleges on personal knowledge.

5 4. While many violations are described below with specificity, this Complaint
6 alleges violations of the statute cited in its entirety.

7 5. Unless otherwise stated, all the conduct engaged in by Defendants took
8 place in Nevada.

9 6. Any violations by Defendants were knowing, willful, and intentional, and
10 Defendant did not maintain procedures reasonably adapted to avoid any such
11 violation.

12 7. Unless otherwise indicated, the use of Defendants' name in this Complaint
13 includes all agents, employees, officers, members, directors, heirs,
14 successors, assigns, principals, trustees, sureties, subrogees, representatives,
15 and insurers of Defendants' named.

21 JURISDICTION AND VENUE

22 8. This Court has federal question jurisdiction because this case arises out of
23 violation of federal law. 15 U.S.C. §1681 *et seq.*; 28 U.S.C. §1331; *Smith v.*
24 *Community Lending, Inc.*, 773 F.Supp.2d 941, 946 (D. Nev. 2011).
25 Jurisdiction arises for Plaintiff's supplemental state claims under 28 U.S.C.
26 § 1367.

9. This action arises out of Defendants' violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681(x) ("FCRA").

10. Venue is proper in the United States District Court for the District of Nevada pursuant to 28 U.S.C. § 1331(b) because Plaintiff is a resident of Clark County, the State of Nevada and Defendants are subject to personal jurisdiction in the County of Clark, State of Nevada as they conduct business there, and the conduct giving rise to this action occurred in Nevada. 28 U.S.C. § 1331(b)(2).

PARTIES

11. Plaintiff is a natural person residing in the County of Clark, State of Nevada. In addition, Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1681a(c). Defendant CCC is a corporation doing business in the State of Nevada. Defendant Experian is a corporation doing business in the State of Nevada.

12. Defendants CCC is a furnisher of information as contemplated by 15 U.S.C. § 1681s-2(b) that regularly and in the ordinary course of business furnishes information to a consumer credit reporting agency.

13. Defendant Experian is a national credit reporting agency, doing business in Nevada, with a principal place of business in Ohio.

GENERAL ALLEGATIONS

14. At all times relevant, Plaintiff was an individual residing within the State of Nevada.

15. At all times relevant, Defendants conducted business in the State of Nevada.

16. On or about May 29, 2013, Plaintiff filed for Bankruptcy in the United States Bankruptcy Court for the District of Nevada. Plaintiff's case was assigned Case Number 13-14668 (the "Bankruptcy").

17. The obligations (“Debt”) to each defendant were scheduled in the Bankruptcy and Defendants, the Creditors, received notice of the Bankruptcy.

18. On or about September 3, 2013, Plaintiff received a Bankruptcy discharge.

19. None of the Defendants filed any proceedings to declare their Debt “non dischargeable” pursuant to 11 U.S.C. § 523 *et seq.*

20. Defendants also did not request relief from the “automatic stay” codified at 11 U.S.C. §362 *et seq.* while the Plaintiff’s Bankruptcy was pending to pursue the Plaintiff on any *personal* liability for any of the underlying Debts.

21. Accordingly, the Debt to each defendant was discharged through the
Bankruptcy.

22. Further, while the automatic stay was in effect during the Bankruptcy, it was illegal for any of the Defendants to report any post-Bankruptcy derogatory collection information.

23. Defendants' reporting post-Bankruptcy derogatory information was inaccurate and misleading in that Defendants continued reporting information based on Defendants' pre-bankruptcy contract terms with the Plaintiff, which were no longer enforceable upon the bankruptcy filing, thereby rendering the disputed information "inaccurate."

24. Additionally, Defendants' inaccurate reporting did not comply with the Consumer Data Industry Association's Metro 2 reporting standards, which provides guidance for credit reporting and FCRA compliance.

25. Plaintiff subsequently learned that each of the named Defendants reported post-Bankruptcy derogatory credit information regarding the obligations on Plaintiff's credit reports, thereby causing erroneous and negative credit information in Plaintiff's credit files.

Credit Control Corporation Misreported Credit Information

Re: Account No. 2111711775

26. In an Experian credit report dated December 10, 2014, CCC reported the following inaccurate, derogatory information:

- Post-bankruptcy information for the following dates: June 2013 (C—Collection)

27. CCC should not have reported derogatory information on Plaintiff's account after May 29, 2013, because Plaintiff filed for Bankruptcy on May 29, 2013.

28. On or about December 17, 2014, Plaintiff disputed CCC's reported information regarding the Debt pursuant to 15 U.S.C. § 1681I(a)(2) by notifying Experian, in writing, of the incorrect and inaccurate credit information furnished by CCC.

29. Specifically, Plaintiff sent a letter, certified, return receipt, to Experian (the “Experian Dispute Letter”), requesting the above inaccurate and incorrect derogatory information be removed as follows:

- This account was discharged in my chapter 7 Bankruptcy which was filed on 5/29/2013 and discharged 9/03/2013, bearing docket No. 13-14668 in the District for Nevada. There should be no derogatory reporting after the filing date. Specifically, please remove the derogatory information for the following post-bankruptcy dates: Jun2013 (C—Collection).

30. The Experian Dispute Letter further requested that Experian:

- Immediately delete this account and the disputed derogatory information from [Plaintiff's] credit report.
- The discharged debt should be reported with an account balance of \$0 with a status of “current”.
- Further, there should be no post-bankruptcy activity reported on this account. The date of last activity on this account should pre-date my bankruptcy filing date, 5/29/2013, since a default on this account occurred no later than the Bankruptcy filing date.
- Any post-bankruptcy derogatory information should be immediately deleted from [Plaintiff's] report.
- If [Experian] do[es] not immediately delete this from [Plaintiff's] credit report, please include a 100-word statement in my credit report of all of the disputed information contained in this letter regarding this account.

31. Upon information and belief, Experian timely notified CCC of Plaintiff's dispute, but CCC continued reporting derogatory information.

32. CCC and Experian were required to conduct a reinvestigation into this specific account on Plaintiff's consumer report pursuant to 15 U.S.C. § 1681i.

33. On or about December 29, 2014, Plaintiff received notification from Experian that CCC and Experian received notice of Plaintiff's dispute pursuant to 15 U.S.C. § 1681i(a)(6), and verified the account "may be considered negative."

34. Surprisingly, rather than remove all the inaccurate, derogatory information from Plaintiff's report, CCC and Experian simply left derogatory information on Plaintiff's report. Specifically, CCC and Experian reported the following inaccurate, derogatory information:

- Post-bankruptcy information for the following dates: June 2013 (C—Collection).

35. CCC and Experian, upon receipt of Plaintiff's dispute, failed to conduct an investigation with respect to the disputed information as required by 15 U.S.C. § 1681s-2(b)(1)(A).

36. CCC and Experian failed to review all relevant information provided by Plaintiff in the dispute to Experian, as required by and in violation of 15 U.S.C. § 1681s-2(b)(1)(B).

37. Due to CCC and Experian's failure to investigate, they each further failed to correct and update Plaintiff's information as required by 15 U.S.C. § 1681s-2(b)(1)(E), thereby causing continued reporting of inaccurate information in violation of 15 U.S.C. § 1681-s(2)(b)(1)(C).

38. Plaintiff's continued efforts to correct CCC and Experian's erroneous and negative reporting of the Debt by communicating Plaintiff's dispute with CCC and Experian were fruitless.

39. CCC and Experian's continued inaccurate and negative reporting of the Debt in light of its knowledge of the actual error was willful.

40. CCC and Experian's inaccurate and negative reporting damaged Plaintiff's creditworthiness.

41. By inaccurately reporting account information relating to the Debt after notice and confirmation of its errors, CCC and Experian failed to take the appropriate measures as determined in 15 U.S.C. §§ 1681-s(2)(b)(1)(D) and (E).

FIRST CAUSE OF ACTION
VIOLATION OF THE FAIR CREDIT REPORTING ACT
15 U.S.C. § 1681 ET SEQ. (FCRA)

42. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

43. The foregoing acts and omissions constitute numerous and multiple willful, reckless or negligent violations of the FCRA, including but not limited to

each and every one of the above-cited provisions of the FCRA, 15 U.S.C § 1681.

44. As a result of each and every willful violation of the FCRA, Plaintiff is entitled to actual damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(1); statutory damages pursuant to 15 U.S.C. § 1681n(a)(1); punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681n(a)(3) from Defendants.

45. As a result of each and every negligent noncompliance of the FCRA,
Plaintiff is entitled to actual damages as the Court may allow pursuant to 15
U.S.C. § 1681o(a)(1); and reasonable attorney's fees and costs pursuant to
15 U.S.C. § 1681o(a)(2) from Defendants.

PRAYER FOR RELIEF

Plaintiff respectfully requests the Court grant Plaintiff the following relief against Defendants:

FIRST CAUSE OF ACTION
VIOLATION OF THE FAIR CREDIT REPORTING ACT
15 U.S.C. § 1681 ET SEQ. (FCRA)

- an award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
- award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
- an award of punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2);

- 1 • award of costs of litigation and reasonable attorney's fees, pursuant to 15
- 2 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1) against Defendants
- 3 for each incident of negligent noncompliance of the FCRA; and
- 4
- 5 • any other relief the Court may deem just and proper.

6 **TRIAL BY JURY**

7 46. Pursuant to the seventh amendment to the Constitution of the United States
8 of America, Plaintiff is entitled to, and demands, a trial by jury.
9

10 Dated: June 5, 2015

Respectfully submitted,

11 BY: /S/ DANNY J. HOREN

12 DANNY J. HOREN, ESQ.
13 ATTORNEY FOR PLAINTIFF